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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,225	05/23/2006	Matthias Wellhoefer	10191/4159	7449
26646	7590	02/25/2009	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			AMRANY, ADI	
		ART UNIT	PAPER NUMBER	2836
		MAIL DATE	DELIVERY MODE	02/25/2009 PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)
	10/564,225	WELLHOEFER ET AL.
	Examiner	Art Unit
	ADI AMRANY	2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 January 2009.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 9-27 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 9-27 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date 1/30/09.

4) Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____ .

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 30, 2009 has been entered.

Response to Arguments

2. Applicants' arguments filed January 30, 2009 have been fully considered but they are not persuasive. The arguments filed with the RCE are identical to those supplied in the After Final amendment (December 11, 2008). These arguments were addressed in the Advisory Action (January 5, 2009), and are reproduced below:

The amendment to claim 9 (taken from claim 20) is identical to the limitations of claim 14, which depends from claims 9 and 13. Claim 14 was rejected in view of Schumacher. Amending claim 9 to include the limitations of claim 14 does not overcome the rejection of claim 14.

Applicants' argument that the references to not disclose a housing is not persuasive. It is obvious that electronics require a housing to shield internal components from outside elements (water, dirt, etc.). Further, as discussed in the Final Rejection (September 25, 2008), the vehicle itself can be considered as "the housing."

Applicants' arguments (Remarks, pages 7-8) regarding the positioning of the sensors (2, 3) relative to the housing (10), it would be obvious to one skilled in the art to

redraw the boundaries of the housing, since the physical dimensions of the housing do not affect the electrical performance of the internal components. Further, as discussed above, the claims do not exclude the vehicle from being considered as the housing.

Applicants' remaining arguments are not persuasive. Claim 9 is written in very broad terminology that opens the claim to interpretations that may not seem consistent with applicants' intentions. The combination of APA/Schumacher and APA/Mazur were properly presented as §103 rejections. The combinations do not destroy the functionality or teach away from the disclosed devices of Schumacher or Mazur.

Lastly, claim 16 is written in even more broad terminology than claim 9. The claim only requires two components (pressure sensor and a switch) to be inside the housing. There are no limitations directed towards the connection of these two components or if they are even part of the same circuit. Under the interpretation that the housing is the vehicle, any vehicle that includes a pressure sensor and a switch would meet the limitations of the claim. Even if the switch were on the opposite side of the vehicle and in no way connected to the operation of the pressure sensor.

All of the pending claims were previously rejected. Applicants' amendment did not add any new subject matter that would require a new search. The amendment only incorporated subject matter from a dependent claim into an independent claim. In accordance with MPEP 706.07(b), this rejection is made Final, because the earlier presented material was denied entry due 3(c), and not due to either 3(a) or (b). Finally, the grounds of rejection are the same as those presented earlier.

Claim Objections

3. Claim 9 is objected to because there is no basis for the limitation of "the processor." The processor is only first introduced as a limitation in claim 13. Claim 9, however, was amended to include the limitations of claim 14, without compensating for the antecedent basis issues.

4. Claims 10 and 14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 9 was amended to include the limitations of claims 10 and 14. These dependent claims, therefore, do not further limit independent claim 9.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA (APA, specification, pages 1-2), in view of Schumacher (US 7,137,645).

With respect to claims 9-10 and 14, APA discloses a device for a detection of a side impact to a vehicle comprising a pressure sensor with a pressure inlet opening (inherent), and a plausibility sensor (page 1, lines 7-13). Schumacher discloses a device for detecting a vehicle side impact (fig 1; col. 2-3), comprising:

a side-impact sensor (2);
a plausibility sensor (5; col. 3, lines 42-67) being a switch that is inside the housing of the side-impact sensor (10); and
wherein the switch is situated in such a way that the switch interrupts a data transmission from the side-impact sensor to the processor, as a function of its state (col. 3, lines 42-67).

Schumacher discloses that the switch (5) and timer (6) turn off the ignition-control circuit (7), such that “a data transmission” (via items 1, 5, 6, 7 and 4) is interrupted. The Schumacher vehicle is interpreted as “the housing” of the pressure sensor. Therefore, the Schumacher switch is inside the housing.

APA and Schumacher are analogous because they are from the same field of endeavor, namely impact detectors. At the time of the invention by applicants, it would have been obvious to one skilled in the art to combine the sensors disclosed in APA with the switch disclosed in Schumacher in order to trigger the safety device only when a critical threshold is exceeded (Schumacher, col. 5, lines 42-52).

With respect to claim 11, APA discloses Hamlin switches are widely used in plausibility sensors (page 2, lines 4-30).

With respect to claims 12-13, Schumacher discloses the switch is connected directly to an ignition output stage (7) to release the stage as a function of its state (fig 1; col. 1, lines 21-25; col. 2, lines 50-58; col. 3, lines 42-48). Schumacher also discloses a processor (4) for releasing the output stage (7) as a function of the switch (col. 3-4).

With respect to claim 15, Schumacher discloses the signal of the switch (input to 5) is coded directed with the output of the impact sensor (1). APA discloses the impact sensor is a pressure switch.

With respect to claim 16, Schumacher discloses a sensor for detection of a side impact to a vehicle (fig 1) comprising a housing (5) and a switch situated in the housing (col. 3). As discussed above, APA discloses a pressure sensor with a pressure inlet.

With respect to claims 17-27, APA and Schumacher disclose the recited limitations, as discussed above in the rejections of claims 11-15.

Conclusion

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADI AMRANY whose telephone number is (571)272-0415. The examiner can normally be reached on Mon-Thurs, from 10am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Elms can be reached on (571) 272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AA /Fritz M Fleming/
Primary Examiner, Art Unit 2836

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